

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

ALSTRON TECHNOLOGIES, INC.

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages

Employer: Alstron Technologies, Inc., 12935 Altosta Blvd. Unit # 1197, San Ramon, CA 94583
Alstron Technologies Inc. 6079 Kingsmill Terrace, Dublin, CA 94568

Date of Hearing: August 12, 2015

Case No. 50789

BACKGROUND AND STATEMENT OF THE ISSUES

A Wage Claim was filed with the Department of Labor on June 24, 2015. The notice was sent to the employer and there was an objection. The objection was sent to the claimant and there was a request for a hearing. The Notice of Hearing was sent to both parties on July 24, 2015.

The claimant testified that she is seeking 90 hours of wages at the hourly rate of \$60.00 per hour. At the start of the hearing the claimant stated that she had received a payment of \$3,000.00 from the employer. The Wage Claim is now for \$2,400.00.

The claimant testified that she was retained by the employer to open a business location in New Hampshire. There was a negotiated hourly rate of \$60.00. The claimant testified that some of her duties were to register the business in New Hampshire, seek out employee benefits and set up the actual office location. She testified that she did sign a non-compete agreement and was hired to work eight hours a week. With prior authorization the claimant was allowed to charge for extra hours.

The claimant testified that she never received any federal or state tax forms and never received any documents for the filing of federal taxes. The business in New Hampshire ceased at a certain point in time without ever starting to practice the goals of the business.

The employer testified that he wanted to set up a location in New Hampshire and did hire the claimant to set up the business. The owner testified that he had a partner in China who

wanted to grow the business but this fell through and there was never any backing from the partner in China.

The employer said that he lost a considerable amount of money in the endeavor and sent a personal check to the claimant because she did do the requested work and he knew he owed the wages. Because he does not want to violate any of the New Hampshire laws, the employer has offered to pay the claimant \$400.00 per month for six months to pay off the debt.

The claimant has accepted this offer.

FINDINGS OF FACT

RSA 275:43 I Every employer shall pay all wages due to employees within 8 days including Sunday after expiration of the week in which the work is performed, except when permitted to pay wages less frequently as authorized by the commissioner pursuant to paragraph II, on regular paydays designated in advance by the employer and at no cost to the employee:

- (a) In lawful money of the United States;
- (b) By electronic fund transfer;
- (c) By direct deposit with written authorization of the employee to banks of the employee's choice;
- (d) By a payroll card provided that the employer shall provide to the employee at least one free means to withdraw up to and including the full amount of the employee balance in the employee's payroll card or payroll card account during each pay period at a financial institution or other location convenient to the place of employment. None of the employer's costs associated with a payroll card or payroll card account shall be passed on to the employee; or
- (e) With checks on a financial institution convenient to the place of employment where suitable arrangements are made for the cashing of such checks by employees for the full amount of the wages due; provided, however, that if an employer elects to pay employees as specified in subparagraphs (b), (c), or (d), the employer shall offer employees the option of being paid as specified in subparagraph (e), and further provided that all wages in the nature of health and welfare fund or pension fund contributions required pursuant to a health and welfare fund trust agreement, pension fund trust agreement, collective bargaining agreement, or other agreement adopted for the benefit of employees and agreed to by the employer shall be paid by every such employer within 30 days of the date of demand for such payment, the payment to be made to the administrator or other designated official of the applicable health and welfare or pension trust fund

This is the section of the law that mandates an employer to pay an employee all wages due at the time the wages are due and owing.

It is the finding of the Hearing Officer, based on the written submissions and the testimony of the parties, that there is a valid Wage Claim. The claimant has the burden to show that there are wages due and owing and she met this burden.

The claimant was credible in her testimony about her wages due and the job she was hired to do.

The employer was also credible that the claimant performed the work and that the wages were due.

The claimant is due \$2,400.00 after having been paid \$3,000.00. The employer said that he had lost his backing from the partner in China but he wants to make the claimant whole for the work performed. The employer offered to pay \$400.00 a month for six months to make up the balance of \$2,400.00 due and owing. The claimant accepted this proposal.

DECISION AND ORDER

Based on the testimony and evidence presented, as RSA 275:43 I requires that an employer pay all wages due an employee, and as this Hearing Officer finds that the claimant proved by a preponderance of the evidence that she was not paid all wages due, it is hereby ruled that the Wage Claim is valid in the amount of \$2,400.00.

The employer is hereby ordered to send a check to the claimant, for \$400.00, each month for the next six months. If the employer misses a payment, the claimant will file another Wage Claim for the balance due. A \$400.00 payment is due on September 30, 2015, October 31, 2015, November 30, 2015, December 31, 2015, January 31, 2016 and February 29, 2016.

Thomas F. Hardiman
Hearing Officer

Date of Decision: August 31, 2015

cc: Alstron Technologies, Inc., 12935 Altosta Blvd. Unit # 1197, San Ramon, CA 94583
Alstron Technologies Inc. 6079 Kingsmill Terrace, Dublin, CA 94568

TFH/kdc